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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/440,144	11/15/1999	JEFFREY G. MARX	065640/0119	2590
7	12/01/2001			
RICHARD L SCHWAAB FOLEY & LARDNER 3000 K STREET			EXAMINER	
			CHATTOPADHYAY, URMI	
SUITE 500 WASHINGTO	N, DC 200075109		ART UNIT	PAPER NUMBER
***************************************	.,,20 2000.0102		3738	

DATE MAILED: 12/01/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

(
		Application No.		Applicant(s)			
Office Action Summary		09/440,14	14	MARX ET AL.			
		Examiner		Art Unit			
			ttopadhyay	3738			
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply							
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).							
Status 1)⊠ Res	ponsive to communication(s) filed on 1	5 November	1999 .				
<u> </u>	·	This action is					
•	te this application is in condition for allo			rosecution as to the merits is			
closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.							
Disposition of Claims							
4)⊠ Claim(s) <u>1-41</u> is/are pending in the application.							
4a) Of the above claim(s) is/are withdrawn from consideration.							
5) Claim(s) is/are allowed.							
6) Claim(s) is/are rejected.							
7)□ Clain	n(s) is/are objected to.						
8) Claim(s) 1-41 are subject to restriction and/or election requirement.							
Application Papers							
9) The specification is objected to by the Examiner.							
10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.							
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).							
11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner.							
If approved, corrected drawings are required in reply to this Office action.							
12) The oath or declaration is objected to by the Examiner.							
Priority under 35 U.S.C. §§ 119 and 120							
13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).							
a) All b) Some * c) None of:							
1. Certified copies of the priority documents have been received.							
2. Certified copies of the priority documents have been received in Application No							
 Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 							
14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).							
a) ☐ The translation of the foreign language provisional application has been received. 15)☑ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.							
Attachment(s)							
2) Notice of D	eferences Cited (PTO-892) raftsperson's Patent Drawing Review (PTO-948) Disclosure Statement(s) (PTO-1449) Paper No(s		· · · · · · · · · · · · · · · · · · ·	y (PTO-413) Paper No(s) Patent Application (PTO-152)			

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Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-26, 37-41, drawn to a rigid reticulated article and process of producing thereof, classified in class 623, subclass 23.51.
- II. Claims 27-36, drawn to method of forming a ceramic article, classified in class623, subclass 23.51.

The inventions are distinct, each from the other because of the following reasons:

Inventions Group I and Group II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by another and materially different process. The article, and process of making that article, of Group I does not require a porous osteoinductive composition being exposed to interconnected openings, as the method of Group II requires.

Because these inventions are distinct for the reasons given above and the search required for Group II is not required for Group I, restriction for examination purposes as indicated is proper. 11/13/0

A telephone call was made to Mr. Todd Burnes on 10/23/01 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

11/13/11

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Urmi Chattopadhyay whose telephone number is (703) 308-8510. The examiner's supervisor, Corrine McDermott, may be reached at (703) 308-2111. The

group receptionist may be reached at (703) 308-0858.

Should the applicant wish to send a fax for official entry into the file wrapper the Group fax number is (703) 305-3590. Should applicant wish to send a fax for discussion purposes only, the art unit fax number is (703) 308-2708.

Urmi Chattopadhya

Art Unit 3738

David J. Isabella Primary Examiner

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October 24, 2001 November 13, 2001